IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 1ST JANUARY 2007 / 11TH POUSHA, 1928.

WP(C).No. 14712 of 2006(B)

AGAINST THE ORDER DATED IN IA.3135/05 IN OP.598/2005 of FAMILY COURT,TRIVANDRUM

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PETITIONER:

N.MOHANAN, REVATHY HOUSE,
BEACH.P.O, KARIKKAKAM,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.BALAGOVINDAN
SRI.M.R.SASITH

RESPONDENTS:
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1. SUGITHA KRISHNAN.K.L,
T.C.75/577, KANAVILA LANE,
KALLUMMODU GARDEN, ANAYARA.P.O,
THIRUVANANTHAPURAM.

2. S.AKHIL, (MINOR),
DO. DO.

3. S.ANAND, (MINOR),
DO. DO.,
(REP. BY THEIR GUARDIAN FIRST RESPONDENT)

4. MANAGING DIRECTOR,
THIRUVANANTHAPURAM RUBBER WORKS, CHAKKAI,
THIRUVANANTHAPURAM.

BY ADV. SRI.K.SASIKUMAR
SRI.R.MANOJ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.C.NO.14712 OF 2006

A P P E N D I X

Petitioners' Exhibits :

EXT.P1:TRUE COPY OF THE ORDER OF THE FAMILY COURT IN I.A.1530/05 IN O.P.598/05 DT. 20.12.2005.

EXT.P2: TRUE COPY OF THE SALARY SLIP OF THE PETITIONER.

EXT.P3: TRUE COPY OF THE ORDER OF THE FAMILY COURT IN I.A.NO.3135/05 IN O.P.598/05 DT. 20.12.2005.

TGS

KURIAN JOSEPH & A.K.BASHEER, JJ.

W.P.(C) No.14712 of 2006

Dated 1st January, 2007.

J U D G M E N T

Kurian Joseph, J.

Petitioner challenges Ext.P3 order passed by the Family Court, Thiruvananthapuram in I.A.3135/05 in O.P.598/05. O.P.598/05 is filed by the respondents 1 to 3 herein, praying for maintenance. As per Ext.P1 order, the Family Court granted maintenance to the tune of Rs.400/- and Rs.350/- to the respondents 2 and 3 respectively. The petitioner (first respondent in the O.P. before the Family Court) is employed under the Thiruvananthapuram Rubber Works, Thiruvananthapuram. Apprehending that the company is going to be wound up and the petitioner was going to get the compensation in lump, the Family Court issued a direction to the company not to disburse an amount of Rs.1,51,200/- to the writ petitioner, since the claim for arrears of maintenance was subject matter of the Original Petition pending before the Family Court. According to the writ petitioner, the order does not satisfy the

requirements of Order 38 Rule 5 of the Civil Procedure Code. It is also submitted that in any case, the Family Court was not justified in passing an order of attachment for the said amount. We are afraid, the contentions of the writ petitioner cannot be appreciated. We do not find Ext.P3 order in I.A.3135/05 in O.P.598/05 as one passed under Order 38 Rule 5. Apparently, it is an order restraining the company from disbursing the compensation amount to the petitioner herein, in the event of the company being wound up. True, the company was not before the Family Court and the order is passed without the company on the party array. The company is impleaded as the 4th respondent herein. Sri.Sasikumar, learned counsel appearing for the 4th respondent submits that as of now, there is no proposal for winding up and no proposal for giving any terminal benefits either to the petitioner herein. If that be so, there is no basis for the apprehension of the parties. In the above circumstances, we need not go into the various contentions taken by the writ petitioner. No injury is caused by the impugned order to the petitioner herein at this stage. We dispose of the writ petition directing the Family Court, Thiruvananthapuram to dispose of O.P.598/05 within a period of six months from the date of receipt

of a copy of this judgment, if not already disposed of.

KURIAN JOSEPH, JUDGE.

A.K.BASHEER, JUDGE.

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KURIAN JOSEPH & A.K.BASHEER, JJ

W.P.(C) NO. OF 2004

J U D G M E N T

Dated 1st January, 2007.